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APR 21 2004

In re Application of
Gramling
Application No. 10/623,222
Deposited: July 21, 2003
Attorney Docket No. P-7988
For: GUTTER RETAINING SYSTEM

OFFICE OF PETITIONS

DECISION DISMISSING
PETITION

This is a decision on the petition, filed December 19, 2003 (Express Mail date December 18, 2003), requesting that the above-identified application be accorded a filing date of July 21, 2003. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**. Any further reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The application was deposited on July 21, 2003. On December 8, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (Notice) informing petitioner that drawings of applicant's invention were missing and that the filing date of the application would be the date drawings were submitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Office accord a July 21, 2003 filing date to the application on the basis that the allegedly omitted drawings were received in the Patent and Trademark Office (PTO) on July 21, 2003.

Unfortunately, petitioner has not submitted the \$130.00 petition fee required by the December 8, 2003 Notice, or any evidence, such as an itemized date stamped return receipt postcard, that proves the omitted drawings were received in the Office on July 21, 2003.

Therefore, the petition is dismissed.

Petitioner is encouraged to submit the \$130.00 petition fee and evidence that the Office received the omitted drawings on July 21, 2003. Petitioner may request a refund of the \$130.00 petition fee, if it is determined that the omitted drawings were indeed filed on July 21, 2003.

If petitioner is unable to prove the drawings were filed on July 21, 2003, petitioner should submit a newly executed oath or declaration covering the omitted drawings. If petitioner selects this option, the filing date of the application will be the date that the omitted drawings are received in the Office.

Further correspondence with respect to this matter should be addressed as follows:

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Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

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